

1 at that time.

2 MR. TITUS: They're mostly girls.

3 MR. LYON: You are not permitted  
4 to speak unless you're on the witness stand.

5 JUDGE SIPPEL: And you have  
6 permission from your attorney.

7 BY MR. LYON:

8 Q All right. You commented  
9 regarding Ms. Novick-Brown. What court  
10 rejected her testimony?

11 A It was a court in Florida.

12 Q Which one?

13 A I don't recall. I used to have  
14 the document. I don't have it anymore.

15 Q And what was the ethical problem?

16 A I believe it was, if I recall  
17 correctly I think it was billing for more  
18 hours than what she had actually put in.

19 MR. KNOWLES-KELLETT: Your Honor,  
20 we'll be happy to provide those documents.

21 JUDGE SIPPEL: I'm not sure if  
22 we're going to need it. Let's see where we're

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1 going.

2 THE WITNESS: That was one of the  
3 problems.

4 BY MR. LYON:

5 Q Was there another one that you're  
6 aware of?

7 A Yes. She allegedly had some sort  
8 of a relationship with somebody she was  
9 representing that she didn't notify the court  
10 about.

11 Q Anything else?

12 A I believe that's it. When we were  
13 reviewing her application, those were the  
14 documents that were sent to us.

15 Q Mr. Titus is not excluded from  
16 anything currently other than owning firearms,  
17 correct?

18 A That's correct.

19 JUDGE SIPPEL: You mean as a  
20 matter of law?

21 MR. LYON: As a matter of law.  
22 Okay. I have nothing further. Oh, now I do

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1 have one thing further.

2 BY MR. LYON:

3 Q And he has not re-offended since  
4 his release from prison, correct?

5 A We don't know that. We --

6 Q You have no knowledge that he has  
7 re-offended since his release from prison?

8 A That's true.

9 Q He has not been arrested --

10 A He has not been arrested --

11 Q -- for any crime.

12 A -- for any crime since he has been  
13 released from prison.

14 JUDGE SIPPEL: What's that date?

15 MS. LANCASTER: '95, I believe,  
16 your Honor. Off the top of my head, I believe  
17 it's 1995.

18 MR. LYON: I have nothing further.

19 JUDGE SIPPEL: Anything further?

20 MR. KNOWLES-KELLETT: Nothing  
21 further, your Honor.

22 MS. LANCASTER: May I ask one

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1 question?

2 MR. LYON: Objection, your Honor.

3 MS. LANCASTER: No, of the Court,  
4 not of --

5 JUDGE SIPPEL: Of me?

6 MS. LANCASTER: Yes, sir. Mr.  
7 Lyon said something earlier about wanting, you  
8 were going to make a decision at some point  
9 about -- what was you were talking about --

10 MR. LYON: I release this witness.

11 MS. LANCASTER: Okay.

12 JUDGE SIPPEL: The witness is  
13 finished. You're finished, sir. I appreciate  
14 you coming and the way in which you cooperated  
15 with everything. You're now free to discuss  
16 your testimony with anybody, although we'd ask  
17 you not to talk to any witnesses that might be  
18 coming up. I can't see the reason for that  
19 anyway, but that's it. Thank you very much.

20 JUDGE SIPPEL: He will have an  
21 opportunity, of course, as the other witnesses  
22 will, to review his transcript.

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1 MR. LYON: If that's the  
2 procedure.

3 JUDGE SIPPEL: And in his  
4 situation, I'm particularly interested that  
5 you do it, if you wouldn't mind, sir. When  
6 you get the transcript before the record is  
7 closed, just review it and let us know that  
8 you're satisfied with it.

9 THE WITNESS: I will, your Honor.

10 JUDGE SIPPEL: Thank you, sir.

11 (Witness excused.)

12 MR. KNOWLES-KELLETT: Just  
13 procedurally, can he sit in the courtroom, if  
14 he decides to?

15 MR. LYON: I have no objection.

16 MR. KNOWLES-KELLETT: Okay.

17 JUDGE SIPPEL: You may do as you  
18 see fit, Detective. Thank you, sir.

19 JUDGE SIPPEL: Next witness?

20 MR. LYON: May I inquire whether  
21 the Bureau rests?

22 MR. KNOWLES-KELLETT: Yes, the

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1 Bureau is resting.

2 MR. LYON: Okay. Your Honor, I  
3 call Dr. Allmon, Doug Allmon.

4 JUDGE SIPPEL: This is in  
5 connection with your case in chief?

6 MR. LYON: That's correct. While  
7 he's doing that, your Honor, may I take two  
8 minutes for a restroom break?

9 JUDGE SIPPEL: Oh, sure. Let's  
10 take, we'll take a ten-minute break.

11 MR. LYON: All right.

12 JUDGE SIPPEL: I know that sounds  
13 like a lot, but by the time he gets there.  
14 Never mind. Ten minutes.

15 (Whereupon, the foregoing matter  
16 went off the record at 2:27 p.m. and went back  
17 on the record at 2:40 p.m.)

18 MR. LYON: Dr. Allmon, would you  
19 identify yourself for the record?

20 THE WITNESS: I am Douglas J.  
21 Allmon, A-L-L-M-O-N.  
22 WHEREUPON,

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1 DOUGLAS J. ALLMON  
2 was called as a witness by Counsel for David  
3 L. Titus and, having been first duly sworn,  
4 assumed the witness stand, was examined and  
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. LYON:

8 Q Dr. Allmon, did you conduct a  
9 psychosexual evaluation of David Lee Titus?

10 A I did.

11 Q And would you, do you have what  
12 has been marked and received into evidence as  
13 Titus Exhibit 2 in front of you?

14 A Is that Detective Shilling's  
15 testimony?

16 Q No, the one to show that that's  
17 the psychosexual evaluation.

18 A I do have the evaluations.

19 Q Okay. And that's the evaluation  
20 of Mr. Titus?

21 A I have that.

22 Q Okay.

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1 JUDGE SIPPEL: I just want to ask  
2 one question. Dr. Allmon, is that only  
3 yourself and Mr. Titus in that room?

4 THE WITNESS: Yes, that's correct.

5 JUDGE SIPPEL: Thank you.

6 BY MR. LYON:

7 Q Dr. Allmon, how did you go about  
8 performing the psychosexual evaluation of Mr.  
9 Titus?

10 A I followed ordinary procedures. I  
11 accomplished a phone screen initially to see  
12 what it was he was seeking of me. I had him  
13 come to my office and conducted the intake  
14 phase of evaluation: gathering data such as  
15 address, phone number, and other details. I  
16 explained the purpose of the evaluation that  
17 I sought. He agreed to that. I then moved in  
18 to the interview phase in which I asked him to  
19 state his version of events 15 to 20 years  
20 ago, and he told me his memory of those  
21 events. I later referred to documentation and  
22 extracted the written version or the official

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1 version. I then inquired about his growing-up  
2 years, where he was born, the circumstances of  
3 his growing up. I further inquired about his  
4 school history starting at the earliest  
5 schooling. I then inquired about his work  
6 history and went into a detailed record of his  
7 sexual history with as much as detail as he  
8 could recall.

9 I also inquired about his history  
10 of using alcohol and drugs, his criminal  
11 history, and his array of friends and intimate  
12 associates with whom he could conduct heart-  
13 to-heart conversations rather fluently. I  
14 also posed some questions which are designed  
15 to identify in a broad sort of way a sort of  
16 flat disorder or mental illness.

17 Q Did you perform, did you  
18 administer any tests to --

19 A I did.

20 Q And would you describe those tests  
21 and the purposes for which they were  
22 administered?

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1           A     A psychosexual evaluation is what  
2     I was engaged to prepare, and the psychosexual  
3     evaluation is very similar to a general  
4     psychological examination, except that it  
5     omits, in a general psychological evaluation,  
6     detail such as I would take during a  
7     psychosexual evaluation. It may omit what is  
8     called the mental status exam, an assessment  
9     of ordinary common knowledge, such as where  
10    are you, what day is it, so on. And it  
11    includes then a polygraph test, which I later  
12    required Mr. Titus to undergo, and it excludes  
13    a general measure of intelligence.

14           Q     Okay. What specific tests did you  
15    give Mr. Titus?

16           A     I did such tests as listed in my  
17    evaluation on page eight, beginning on page  
18    eight.

19           Q     Okay. And that would be the  
20    Minnesota Multi-Phasic Personality Inventory  
21    II?

22           A     The first test administered was

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1 the Minnesota Multi-Phasic Personality  
2 Inventory, which is the major test which is  
3 used in psychology to assess in a broad way  
4 all aspects of psychological functioning. I  
5 also administered what is known as the  
6 Michigan Alcohol Screening Test. It's a  
7 confirmation, in this case, of Mr. Titus' lack  
8 of predisposition to use alcohol or drugs. I  
9 administered the Beck Depression Inventory,  
10 known as the BDI, as a specialized test of  
11 depression, if any. I administered what's  
12 called a Gambril & Richie Assertion Inventory  
13 as a measure of his ability and predisposition  
14 to use a certain behavior to achieve his  
15 goals. I administered the  
16 Hanson/Gizzarelli/Scott Sexual Attitudes Test,  
17 which is a list of statements having to do  
18 with various aspects of sexual behavior, those  
19 with which Mr. Titus agreed he was asked to  
20 mark.

21 16-PF is like an MPI-II. It is  
22 what is called a psychometric inventory, and

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1 it's an examination of general psychological  
2 functioning. Incomplete Sentence Blank is what  
3 is called projected test, one form of a  
4 projected test, in which he is given a series  
5 of sentences, such as "I like . . ." or, "I  
6 especially enjoy . . ." and then he's required  
7 to fill in the sentence, finish out the  
8 sentence.

9 Q Okay. Can you summarize your  
10 findings from your psychosexual evaluation?

11 A Yes, I can.

12 Q Please do.

13 A On page ten, the section of  
14 psychosexual predisposition, notice that the  
15 overall conclusion is Mr. Titus' psychological  
16 functioning is remarkable for its normalcy,  
17 it's absence of findings that are outside the  
18 normal range. Only one of the whole array of  
19 tests, and some of the tests included numerous  
20 subscales, only one of those exceeded the  
21 normal range, and that exceeded the normal  
22 range only by a fairly small factor.

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1           Q     Based on your psychosexual  
2     evaluation, have you formed an opinion on  
3     whether Mr. Titus is likely to re-offend  
4     sexually?

5           A     I found no evidence that he is  
6     predisposed currently to behave in any  
7     anomalous way, including sexually. So there  
8     seems to be nothing remarkable about his  
9     sexual predispositions at the present.

10          Q     Okay. Let me see if I can  
11     rephrase that in normal language. Would that  
12     mean that you did not find him to be a  
13     pedophile?

14          A     I found no evidence of pedophilia  
15     in Mr. Titus' data as it was arrayed during  
16     this evaluation.

17          Q     And is it correct that pedophilia  
18     is the sexual desire for minors?

19          A     There are precise diagnostic  
20     requirements for that definition. But, in  
21     general, your Honor, yes. It requires a  
22     primary focus on children and spanning more

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1       than six months. And in the current year and  
2       for many years, that appears not to have been  
3       Mr. Titus' case.

4           Q       Now, is it true that much of your  
5       findings are based upon Mr. Titus' own  
6       statements, as well as the fact that he hasn't  
7       been re-arrested?

8           A       Yes, your Honor. Who is asking me  
9       the questions? I'm not quite sure.

10          Q       I'm sorry. This is George Lyon.  
11       I now aspire to be an Honor but so far I'm  
12       not.

13          A       I couldn't see a mouth moving, and  
14       I thought it was the Judge posing these last  
15       two or three questions. Mr. Lyon, please  
16       rephrase the question.

17          Q       Sure. Much of your findings  
18       appear to be based upon Mr. Titus own  
19       statements and reported history and the fact  
20       that he has not been re-arrested. And my  
21       question is did the psychosexual evaluation  
22       control for the potential that Mr. Titus might

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1 have been untruthful to you?

2 A Yes, it did, in an important way.  
3 The psychometric inventories, the MPI-II and  
4 the 16-PF both contain what are called lie  
5 scales within the business. They are called  
6 administrative indices. The administrative  
7 indices or lie scales for Mr. Titus numbered  
8 four in this case, and they all were within  
9 the normal range, signifying that he had taken  
10 those tests in a stance of frankness and  
11 honesty. Another question was asked during  
12 the polygraph testing, which stated, "Did you  
13 try to get results when you filled out the  
14 questionnaires?" and his answer there  
15 suggested that he was being frank and honest,  
16 as well.

17 In addition, other questions on  
18 the polygraph testing asked him to state  
19 whether he had tried, whether he had been  
20 honest in reporting his general history, his  
21 sexual history, and his history involving the  
22 crime as an adolescent for which he was

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1 arrested, and those results also came back  
2 unambiguously, that he had been honest in  
3 reporting his history to me.

4 Q Okay. And I want to make sure  
5 that the history that you looked at included  
6 both his adult conviction and his two juvenile  
7 adjudications.

8 A They did.

9 Q Okay. Sir, do you know a  
10 psychologist by the name of Natalie Novick-  
11 Brown?

12 A Yes, I do.

13 Q Okay. And do you understand her  
14 to be a respected sex offender researcher?

15 A Not a researcher so much as an  
16 evaluator and clinician. She is held, by most  
17 people, in the highest possible respect.  
18 She's remarkable for her numerous successes  
19 and accomplishments. In short, she is an  
20 admired professional in my opinion.

21 Q Do you know of any ethical lapses  
22 by her?

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1           A     I do not, although I might say  
2     that she has a very robust practice and that  
3     she undertakes very difficult cases. I think  
4     the statistics are that in my line of work and  
5     hers we run at least a 25 percent probability  
6     of having at least one inquiry or complaint  
7     with an ethics board or with an organizational  
8     review committee, and she may have had that.  
9     But, certainly, overall, Dr. Novick-Brown's  
10    work is, in my opinion, highly admired. And  
11    I've had ample opportunity to see her work and  
12    work with her in organizations that we've been  
13    both members of.

14           Q     What organizations are those?

15           A     There is an actual organization  
16    called ATSA. I'm not quite sure I can  
17    remember the acronym. It's the organization  
18    of people who dive in and treat sex offenders.  
19    They've had a chapter here in the Seattle area  
20    for decades, but that chapter did not become  
21    active until several years ago. Therefore, I  
22    and several others established an organization

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1 whose purpose was to bring in prominent  
2 national speakers to conduct training in this  
3 area. Dr. Novick attended those trainings,  
4 and I had occasion to deal with her there.

5 In addition, I served locally in  
6 an organization called the Seattle Forensic  
7 Institute, which is a fairly prestigious  
8 organization I believe, a convergence of legal  
9 scholars and professionals in psychology and  
10 psychiatry. I served on the board of that  
11 organization for a number of years, and she  
12 also frequently attended, as I recall,  
13 presentations by the Seattle Forensic  
14 Institute.

15 Q Okay. I'd like to go back for one  
16 second to one of the tests that you  
17 administered, the Hansen/Gizzarelli/Scott  
18 Sexual Attitudes Test.

19 A Yes.

20 Q What is that test designed to  
21 show, if anything?

22 A Well, it's designed to show

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1 anything. It's designed to identify prominent  
2 sexual peculiarities in the current era.

3 Q Would pedophilia be one of those?

4 A Yes.

5 Q And the test results for the  
6 Hansen test did or did not show any  
7 predisposition toward pedophilia on the part  
8 of Mr. Titus?

9 A No predisposition for pedophilia.  
10 I'd like to look at my copy of that inventory  
11 and make sure I'm not omitting something  
12 that's important.

13 Q Is your copy of that test included  
14 in the packet of materials going to Ms.  
15 Lancaster? To the psychologist?

16 A Yes.

17 Q Okay.

18 A Sorry for the delay. These files  
19 become voluminous quickly.

20 Q I can fully understand that.

21 A On that test, which may be used  
22 psychometrically or maybe used as a

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1 convenience in gathering data, I use it in the  
2 latter way, Mr. Titus endorsed an item that  
3 said, "Sex must be enjoyed by both parties,"  
4 "I have sex about as often as I want to," "A  
5 man can have sex outside the marriage and  
6 still love his wife." "If someone likes me,  
7 is it okay to have sex with them," that's not  
8 explicated, but he's discussed that with me.  
9 "Fondling a child without penetration can  
10 still cause harm."

11 Q Okay. In your discussions with  
12 Mr. Titus, did he indicate a large number of  
13 sexual partners?

14 A He did.

15 Q Does that concern you with respect  
16 to whether or not he may be likely to re-  
17 offend sexually?

18 A Because a man is robust sexually  
19 does not necessarily mean that he's a  
20 pedophile or likely to engage in sex crimes.  
21 And Mr. Titus' sexual history certainly is not  
22 anywhere near as extensive as the sexual

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1 histories of some people who simply like a lot  
2 of sex but engage sexually not in any illegal  
3 way.

4 Q Okay. Does the fact that he is  
5 gay concern you with respect to his likelihood  
6 to re-offend?

7 A No. Sexual orientation is not a  
8 correlate of sex crime.

9 Q Do you have any information  
10 concerning the rate of recidivism of sex  
11 offenders in the State of Washington?

12 A The State of Washington is lower.  
13 I can't quote precisely, but I have national  
14 statistics and I think I know that in  
15 Washington it is considerably lower than the  
16 national average.

17 Q Okay. What's the national  
18 average?

19 A The national average I believe is  
20 that around 12 percent of sex offenders re-  
21 offend if they don't have treatment. If they  
22 do have treatment and maintain treatment, the

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1 probability of re-offense goes down to around  
2 five percent.

3 Q Okay. For a former sex offender,  
4 what are the more important elements for them  
5 to avoid re-offending?

6 A It depends on the individual what  
7 particular trigger points are. Typical things  
8 that sex offenders employ are a sound and  
9 thorough empathy for the impact on a victim of  
10 any sex crime or certain situational  
11 circumstances go to avoid those kinds of  
12 places or to use ample self talk, comments  
13 within his own thought process about the  
14 illegality and immorality of harming another  
15 person sexually. So any of those and many  
16 others are common stances that the former sex  
17 offender adopts and internalizes and makes use  
18 of for the rest of his life.

19 Q Can you tell us more about the  
20 self talk concepts?

21 A Self talk is, I suppose informally  
22 you'd define as statements or comments made to

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1       oneself.     For example, if I were a sex  
2       offender prone to rape women, I might say,  
3       "Well, what I'm going to do to her won't kill  
4       her," or I might say, "This is a child. I'm  
5       teaching this child something that she needs  
6       to know anyway, and so it's not a big deal."  
7       These are the kind of things that justify  
8       proceeding with the sex crime.

9               Q     Okay. With respect to the self  
10       talk, the self talk concepts to avoid re-  
11       offending, how does that work?

12              A     During the course of treatment,  
13       enrolling in treatment is urged to go over and  
14       over what are the most impactful and useful  
15       items that somehow he can apply in his own  
16       life to avoid re-offense, and then he's taught  
17       through many, many repetitions and rehearsals  
18       to visualize being in a situation where he  
19       might be tempted or be inclined to act out and  
20       he immediately plugs in the self talk  
21       statements, many times more than one, until he  
22       gets himself to get back on track.

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1 Q Okay. Does being nonconforming,  
2 in your opinion, place a former sex offender  
3 at the risk of re-offending?

4 A I did tests on the nonconformity.  
5 In Mr. Titus' case, as far as I'm able to  
6 tell, he's quite conventional in all respects,  
7 except that his orientation sexually is  
8 towards male, and that is not a correlate of  
9 pedophilia.

10 Q Okay. How about being resentful  
11 of authority?

12 A That finding in psyche testing  
13 comes up very, very frequently, and not  
14 everybody who is annoyed by people in  
15 authority is a sex offender. It's kind of a  
16 grumpy stance that may be fairly strong and  
17 prominent or it may be incidental, but it  
18 doesn't necessarily predict sex crime.

19 Q Okay. In making your evaluation  
20 of Mr. Titus, were you aware of an event that  
21 occurred at Mercer Island?

22 A Yes, I was.

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1 Q Did that event concern you?

2 A Well, it would have concerned me.  
3 Apparently, it was a misunderstanding on the  
4 part of the law enforcement. That matter was  
5 tested by polygraph testing as I undertook the  
6 evaluation for Mr. Titus, and apparently he  
7 was honest that he had innocently walked in to  
8 a latrine that was empty, made use of it and  
9 left, and then was accosted by an officer who  
10 accused him of paint-balling the facility and  
11 other things that were completely irrelevant  
12 to what his purpose was there. As I say, his  
13 statement of what went on was supported by  
14 indication of truthfulness when he underwent  
15 polygraph testing.

16 Q And did you consider a traffic  
17 accident that Mr. Titus had with another  
18 person where there was some sort of  
19 altercation?

20 A Yes, I did.

21 Q And did that concern you?

22 A Well, it would have concerned me

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